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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* WILLIAM C. ERBEY, CHRISTOPHER KENNEDY, and  
BRYAN HURLEY

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Appeal 2016-003461  
Application 13/924,260<sup>1</sup>  
Technology Center 3600

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Before ANTON W. FETTING, BRUCE T. WIEDER, and  
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

WIEDER, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1, 2, 4, 5, 7, 8, 12–18, and 20–23. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> According to Appellants, the real party in interest is Altisource Solutions S.à.r.l. of Luxembourg. (Appeal Br. 3.)

### CLAIMED SUBJECT MATTER

Appellants' claimed invention relates to "managing financial transactions that require goods or services from multiple vendors and, in particular, to methods and systems for facilitating real estate closing transactions." (Spec. ¶ 2.)

Claims 1, 13, and 17 are the independent claims on appeal. Claim 1 is illustrative. It recites:

1. A method for electronically facilitating a transaction, the method implemented on a suitably programmed computer comprising at least one processor, and at least one user interface, the method comprising:

accessing, via a memory unit, a database comprising a plurality of transaction data items associated with a the [sic] transaction;

receiving, via the at least one processor in communication with the memory unit, the plurality of transaction data items associated with the transaction;

populating, via the at least one processor, a transaction document with the plurality of transaction data items;

outputting, via the at least one processor to the at least one user interface, the transaction document populated with the plurality of transaction data items for interaction with a first user;

determining, via the at least one processor, at least one necessary documentation element according to at least one of (a) the plurality of transaction data items or (b) the transaction;

transmitting, via the at least one processor, an order to one or more third parties for the at least one necessary documentation element;

updating the transaction document, wherein updating the transaction document further comprises:

receiving, via the at least one user interface, a request from the first user to change at least one of the plurality of transaction data items in the transaction document;

receiving, via the at least one user interface, from the first user a replacement transaction data item corresponding to at least one of the plurality of transaction data items;

receiving, via the at least one user interface, authorization from a second user for the request and the replacement transaction data item; and

transmitting, via the at least one processor, the request, the replacement transaction data item, and the authorization for the request;

outputting, via the at least one processor to the at least one user interface, the updated transaction document.

#### REJECTION

Claims 1, 2, 4, 5, 7, 8, 12–18, and 20–23 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

#### ANALYSIS

In 2014, the Supreme Court decided *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014). *Alice* applies a two-part framework, earlier set out in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355.

Under the two-part framework, it must first be determined if “the claims at issue are directed to a patent-ineligible concept.” *Id.* If the claims are determined to be directed to a patent-ineligible concept, then the second part of the framework is applied to determine if “the elements of the claim . . . contain[] an ‘inventive concept’ sufficient to ‘transform’ the

claimed abstract idea into a patent-eligible application.” *Id.* at 2357 (citing *Mayo*, 566 U.S. at 72–73, 79).

With regard to part one of the *Alice* framework, the Examiner determines that the claims are directed to the “abstract idea of processing financial transactions involving a plurality of users (or participants).” (Answer 5.) Additionally, the Examiner finds that “[t]ransaction processing via [a] user interface and changing a transaction data item by [an] authorized person is a well-known and fundamental economic practice.” (Final Action 4.)

Appellants disagree and argue that “although Appellants’ claims may *involve* an economic practice, the claims do not *involve* a *fundamental* economic practice and importantly, the claims are not ‘directed to’ (i.e. recite or describe) a *fundamental* economic practice.” (Appeal Br. 11.<sup>2</sup>)

Under part one of the *Alice* framework, we “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)). Thus, although we consider the claim as a whole, the “directed to” inquiry focuses on the claim’s “character as a whole.”

The Specification provides evidence as to what the claimed invention is directed. In this case, the Specification discloses “managing financial transactions that require goods or services from multiple vendors and, in

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<sup>2</sup> “Appeal Br.” refers to the Supplemental Appeal Brief filed September 1, 2015.

particular, to methods and systems for facilitating real estate closing transactions.” (Spec. ¶ 2.) Claim 1 recites “[a] method for . . . facilitating a transaction . . . comprising: accessing . . . a database,” “receiving . . . data items associated with the transaction,” “populating . . . a transaction document with . . . data items,” “outputting . . . the transaction document,” “determining . . . at least one necessary documentation element,” “transmitting . . . an order to one or more third parties for the . . . necessary documentation element,” “updating the transaction document,” “receiving . . . a request . . . to change at least one of the plurality of transaction data items in the transaction document,” “receiving . . . a replacement transaction data item,” “receiving . . . authorization . . . for the request and the replacement transaction item,” “transmitting . . . the replacement transaction data item, and the authorization request,” and “outputting . . . the updated transaction document.”

In short, without the processor elements, nothing remains in the claims but the abstract idea of “processing financial transactions involving a plurality of users” (*see* Answer 5), or, more particularly, processing a financial transaction “via [a] user interface and changing a transaction data item by [an] authorized person” (*see* Final Action 4). As in *Alice*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of collecting information to facilitate loan shopping in *Mortgage Grader, Inv. v. First Choice Loan Services Inc.*, 811 F.3d 1314 (Fed. Cir. 2016) and the concept of collecting/receiving data and using that data to populate a document for financial transactions, at issue here. Both are squarely within the realm of

“abstract ideas” as the Court has used that term. *See Alice*, 134 S. Ct. at 2357

Part two of the *Alice* framework has been described “as a search for an ‘“inventive concept” ’—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 72–73).

The introduction of a computer into the claim does not alter the analysis at step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’ ” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “ ‘to a particular technological environment.’ ” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implemen[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our §101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional featur[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

*Id.* at 2358 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Id.* at 2359. They do not. Claim 1 relates to a method for facilitating a transaction by populating a transaction document with received data items, outputting the document, determining and ordering from

a third party one or more necessary documentation elements, updating the document, and transmitting the updated document.

Appellants argue “that the claims herein go far beyond merely offering any ‘token extra-solution activity’ as the Office Action suggests. For example, independent claim 1 recites a new and nonobvious method for electronically facilitating a transaction on a computer.” (Appeal Br. 13.) We disagree. As an initial matter, we note that “[t]he ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981). Additionally, taking the claim elements separately, the function performed by the processor at each step is purely conventional. Receiving data, displaying the data, updating the data, and displaying the updated data, are basic computer functions. Moreover, the Specification discloses that the invention can be implemented using generic computer components. (*See, e.g.*, Spec. ¶ 25–26.) In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. The claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea using some unspecified, generic computer. That is not enough



to transform an abstract idea into a patent-eligible invention. *Alice*, 134 S. Ct. at 2360.

Nonetheless, Appellants seek to analogize the present claims to those in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). (Appeal Br. 8, 11–12.) But unlike the claims here, the claims in *DDR Holdings* “specify how interactions with the Internet are manipulated to yield a desired result — *a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.*” *DDR Holdings*, 773 F.3d at 1258 (emphasis added). In other words, the invention claimed in *DDR Holdings* does more than “simply instruct the practitioner to implement the abstract idea with routine, conventional activity.” *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014); *see also DDR Holdings*, 773 F.3d at 1259.

In view of the above, we are not persuaded that the Examiner erred in rejecting claim 1 under § 101. Appellants also argue that “[i]ndependent claims 13 and 17 recite similar, but not identical features, as independent claim 1 and are similarly directed to improvements to tangible and concrete improvements to the technology field of electronic transaction facilitation.” (Appeal Br. 14.) However, for the reasons discussed above, we are also not persuaded that the Examiner erred in rejecting claims 13 and 17. Dependent claims 2, 4, 5, 7, 8, 12, 14–16, 18, and 20–23 are not separately argued and fall with their respective independent claims. *See* 37 C.F.R. § 41.37(c)(iv).

## DECISION

The Examiner’s rejection of claims 1, 2, 4, 5, 7, 8, 12–18, and 20–23 under 35 U.S.C. § 101 is affirmed.

Appeal 2016-003461  
Application 13/924,260

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED